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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

In re JUAN D., a Person Coming Under the  
Juvenile Court Law.

KERN COUNTY DEPARTMENT OF HUMAN  
SERVICES,

Plaintiff and Respondent,

v.

TIMOTHY P.,

Defendant and Appellant.

F071275

(Kern Super. Ct. No. JD133100)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Kern County. Louie L. Vega,  
Judge.

Jacob I. Olson, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Kimball J.P. Sargeant, under appointment by the Court of Appeal, for Minor.

No appearance on behalf of Plaintiff and Respondent.

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\* Before Kane, Acting P.J., Poochigian, J. and Franson, J.

## **INTRODUCTION**

Appellant Timothy P. challenges the juvenile court's denial of his request to be elevated to presumed father status of his stepson, Juan D. The respondent's brief, filed on behalf of Juan, contends the appeal is moot as the juvenile court dismissed the Welfare and Institutions Code<sup>1</sup> section 300 petition as to Juan. We agree the appeal is moot.

## **FACTUAL AND PROCEDURAL SUMMARY**

On August 1, 2014, petitions were filed by the Kern County Department of Human Services (Department) on behalf of Juan and his half siblings. Helen P. is Juan's mother and Jose E.M. is Juan's biological father. Amended petitions were filed on September 8, 2014. It was alleged that Juan had suffered, or was at substantial risk of suffering, serious physical harm due to Timothy's mental illness and resulting inability to provide proper care. It also was alleged that Juan and the other children were suffering, or at risk of suffering, serious emotional damage as a result of Timothy's conduct and behaviors in the home.

The Department noted that Timothy previously had been married and fathered eight children with that wife. A dependency petition was filed on behalf of these children in Massachusetts on the grounds Timothy sexually and physically abused the children and neglected them. He failed to reunify with these children and lost custody of all eight children.

Timothy continued to display inappropriate behavior, including inappropriate sexual behavior, with his and Helen's children. Timothy would not allow the children to attend school; he slept naked in the young children's room; and he forced Helen to cut off all contact with their families, claiming they were all child molesters.

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<sup>1</sup> References to code sections are to the Welfare and Institutions Code unless otherwise specified.

The Department filed a first amended petition on February 6, 2015, which repeated the same allegations as the amended petition as to Timothy. The first amended petition alleged that Helen had failed to adequately supervise or protect Juan from his stepfather, Timothy.

Helen is from El Salvador, where she graduated from high school. Juan was born in 1998 in El Salvador. In 2002, Helen married Timothy in El Salvador. They stayed in El Salvador for 18 months, then Timothy moved back to the United States. Helen and Juan followed in 2006. Helen said Timothy got “very controlling” after their marriage. There was domestic violence in their marriage, and Timothy wouldn’t allow the family to have a “normal life.” Helen stated Timothy used marijuana daily and regularly consumed alcohol.

A court ordered psychological evaluation of Timothy was completed in September and October 2014. Dr. Allison Little diagnosed Timothy with delusional disorder, persecutory type. She also noted concerns about suspected child abuse, spousal abuse, and child sexual abuse. Dr. Little opined that the prognosis for change in Timothy’s emotional and personality functioning was “guarded” based on his long-standing symptoms, his denial of any problems, and his lack of insight into this mental illness.

Timothy was provided supervised visitation with the children while the dependency proceeding was pending. The supervising social worker reported that Timothy would tell the children they could not trust their mother, Helen. Timothy claimed Helen was trying to kill him. Two of the children told the social worker that Timothy referred to Helen as “evil.”

Timothy displayed histrionic behavior during visits and seemed on the “brink of psychosis.” During visits, Timothy would often fixate on the youngest child and ignore the others. On one visit, Timothy had to be escorted from the building by a security guard. Multiple visits had to be terminated because of Timothy’s behavior.

The social worker stated that when Juan first entered foster care, he was very quiet and would not talk about his visits with his mother. Juan's personal hygiene also was deficient. Juan's relationship with his mother improved after the children were in protective custody and no longer living with Timothy.

By January 2015, Juan felt that his mother could provide care for all of her children. He reported he enjoyed his counseling sessions with his mother.

Juan told the social worker he was open to overnight visits with his mother. The children began having overnight visits with Helen in February 2015.

Timothy's behaviors during supervised visits upset Juan; Juan felt Timothy's behaviors "made things worse." Juan felt Timothy's behavior was "embarrassing," and Timothy was "ruining the visits." Juan felt like saying something on the occasions when Timothy acted out, but was afraid of Timothy's anger. Juan would not be unhappy if the visits with Timothy stopped, but he would miss seeing his half siblings.

After six months of supervised visits, the social worker noted that Timothy continued to believe Helen was trying to kill him, even though there was no evidence to support this belief. He also believed, without any basis, that his mother and siblings were molesting his children. Timothy also accused the social workers of having tortured his children and tried to have them arrested.

Helen had been assessed by the Department and was found not to be suffering from any mental health issues. She had been very cooperative and displayed appropriate parenting skills during her visits. The Department offered Helen unsupervised visits as well as overnight visits.

The Department recommended that visits between Timothy and Juan be terminated because the visits were detrimental to reunification between Juan and his biological mother, Helen. Juan had been led to believe, by Timothy, that his mother was evil and trying to kill Timothy. Juan did not want to upset Timothy or make him mad. The social worker acknowledged that Juan did see Timothy as a father figure, but stated

that Timothy's influence was a very negative influence on Juan and interfering with Juan's relationship with his mother.

A combined jurisdictional and dispositional hearing was held on March 2, 2015. Second amended petitions as to all four children had been filed that morning; the petitions did not contain any allegations against the mother. Timothy was represented by counsel; Helen and the children each had separate counsel.

Timothy's counsel requested that Timothy be elevated to presumed father status, arguing that Timothy was the only father Juan had known since the age of three years, and Timothy continued to visit with Juan after the juvenile court assumed jurisdiction. Both Helen's counsel and counsel for the minors asked the juvenile court not to elevate Timothy to presumed father status. They argued it would be detrimental to Juan to elevate Timothy to presumed father status.

Counsel for the minors noted that Juan knows Timothy is not his father and has acknowledged that point to everyone. Counsel for Juan opined that Juan had had an "epiphany" and realized that things in his household were not ordinary and like other households, when they were living with Timothy. Counsel had discussed with Juan that his reunification would be with his mother, Helen, and that Timothy would not be elevated to presumed father status. Counsel indicated Juan was "okay" with that. Juan's visits with Timothy were not going well, and Juan was interested in reunifying with his mother.

Timothy was given presumed father status as to his biological children, Juan's half siblings; the juvenile court denied presumed father status as to Juan. The juvenile court found that elevating Timothy to presumed father status would be detrimental to Juan and not in Juan's best interests. The trial court dismissed the section 300 petition as to Juan, because there were no allegations as to Helen in the second amended petition.

Timothy filed a notice of appeal. On June 16, 2015, counsel for the minor, Juan, recommended that appellate counsel be appointed to represent Juan in this appeal. On July 9, 2015, appellate counsel was appointed for Juan.

### **DISCUSSION**

Timothy contends the juvenile court's ruling denying him presumed father status pursuant to Family Code section 7611, subdivision (d), was error. Juan contends the issue is moot, as the dependency proceeding was dismissed as to him. We agree with Juan.

The juvenile court placed Juan in Helen's custody and dismissed the section 300 petition as to Juan. There is no ongoing dependency proceeding for the appealed-from order to affect; it has been dismissed. (*In re Michelle M.* (1992) 8 Cal.App.4th 326, 329.)

An appeal will not be entertained unless it presents a justiciable issue. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1489.) As a general rule, if a reversal can have no practical effect, an appeal is moot. (*In re Joshua C.* (1994) 24 Cal.App.4th 1544, 1547.) There is no possible remedy where juvenile court jurisdiction, as here, has been terminated as to Juan. (*In re Michelle M., supra*, 8 Cal.App.4th at p. 330.)

### **DISPOSITION**

The appeal is dismissed as moot.